

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 03-11422-MLW

STEVEN DRURY,

Plaintiff,

v.

THE NEW ENGLAND REGIONAL
COUNCIL OF CARPENTERS,
CARPENTERS LOCAL UNION NO. 107,
THOMAS HARRINGTON, ART SISCO,
SIMON JAMES, and KENNEDY & ROSSI,
INC.,

Defendants.

**DEFENDANTS' MOTION TO
EXTEND TIME TO OPPOSE
PLAINTIFF'S MOTION TO REMAND**

Defendants New England Regional Council of Carpenters, Carpenters Local Union No. 107 (the "Union"), Thomas Harrington, Art Sisko, Simon James, and Kennedy & Rossi, Inc. (collectively, the "Defendants") respectfully request that the Court allow the defendants an additional two weeks to file briefs in opposition to Plaintiff Steven Drury's Emergency Motion to Remand State Court and Jurisdiction [sic] (the "Motion to Remand"). The Court should permit the Defendants to file an opposition to the Motion to Remand by September 12, 2003, because (1) Plaintiff filed his Motion to Remand in violation of Local Rule 7.1(a), which requires a party to meet and confer with the opposing parties before filing any motion; (2) Plaintiff has already agreed to extend the deadline for the Defendants to respond to the complaint to September 12, 2003, and the legal issues raised in Defendants' opposition to the Motion to Remand will be the same as those raised in the Defendants' response to the complaint; (3) Plaintiff has informed counsel for Kennedy & Rossi, Inc. that he is considering withdrawing

his Motion to Remand; and (4) Plaintiff will not be prejudiced in any way by this brief extension of time for the Defendants to file opposition briefs.

In support of their request to extend the deadline for submitting briefs opposing Plaintiff's Motion to Remand, the Defendants state as follows:

1. Plaintiff filed the complaint in this action in the Massachusetts Superior Court in Worcester County and served the complaint on defendants on July 25, 2003.
2. The Union, Mr. Harrington, Mr. Sisko and Mr. James removed the case to this Court on July 30, 2003.
3. Plaintiff has agreed to extend the deadline for the Defendants to respond to the Complaint to September 12, 2003.
4. On August 15, 2003, Plaintiff filed and served the Motion to Remand. Prior to filing the Motion to Remand, Plaintiff did not consult with either of the attorneys representing the Defendants in an attempt to resolve or narrow the issues, nor did he file a certification that he had engaged in such consultation, as required under Local Rule 7.1(A)(2).
5. Under Local Rule 7.1(B)(2), the deadline for responding to Plaintiff's Motion to Remand would ordinarily be August 29, 2003.
6. The legal issues addressed in the Defendants' responses to the complaint will be the same as the legal issues that will be addressed in their opposition to the Motion to Remand. Specifically, the Defendants will set forth in detail their arguments that all of the claims in the complaint are preempted by federal labor law, and that the complaint should be dismissed. Accordingly, it is appropriate for the Court to address all of these issues at the same time, and for the Defendants' legal arguments to be presented at the same time.

7. Because of scheduling issues affecting both counsel for the Union and Messrs. Harrington, Sisko and James, as well as counsel for Kennedy & Rossi, Inc., the Defendants require additional time to prepare their oppositions to the Motion to Remand.

8. On August 25, 2003, the attorneys for the Defendants spoke to Plaintiff in person and asked that he agree to extend the deadline for responding to the Motion to Remand. Plaintiff, who is representing himself, said that he would consider the request, but could not make a decision at that time. Counsel for Kennedy & Rossi, Inc. telephoned Plaintiff on August 26, 2003, to discuss the Defendants' request for an extension of time, but Plaintiff again stated that he needed to consider the matter further. During the August 26 conversation, Plaintiff also stated that he was contemplating the possibility of withdrawing his Motion to Remand, but indicated that he also needed to give consideration to this issue. On August 27, 2003, counsel for Kennedy & Rossi, Inc. telephoned Plaintiff three times in an attempt to obtain his assent to an extension, but Plaintiff did not answer his telephone.


9. Plaintiff would not be prejudiced by the brief extension of time requested by the Defendants in this motion.

Tor all of the reasons set forth above, Defendants respectfully request that the deadline for submitting their oppositions to the Motion to Remand be extended by two weeks, to September 12, 2003.

Respectfully submitted,


KENNEDY & ROSSI, INC.
By its attorneys,

HOLLAND & KNIGHT LLP


Paul M. James (BBO # 552342)
Douglas W. Phillips (BBO # 636197)
10 St. James Avenue
Boston, Massachusetts 02116
(617) 523-2700

NEW ENGLAND REGIONAL COUNCIL OF
CARPENTERS, CARPENTERS LOCAL
UNION NO. 107, THOMAS HARRINGTON,
ART SISCO AND SIMON JAMES
By their attorneys,

KRAKOW & SOURIS, LLC


Christopher N. Souris
BBO # 556343
225 Friend Street
Boston, MA 02114
(617) 723-8440

Dated: August 27, 2003

BOS1 #1366725 v1

*I hereby certify under the pains and penalties
of perjury that this document was served upon
counsel for all parties in this case on*

August 27, 2003 by Hand/Delivered Mail


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THE NEW ENGLAND REGIONAL COUNCIL OF
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Defendants.

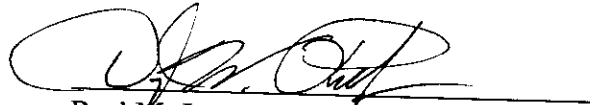
LOCAL RULE 7.1 CERTIFICATION

I, Douglas W. Phillips, counsel for Defendant Kennedy & Rossi, Inc., certify that I have conferred with the Plaintiff in this action and have attempted in good faith to resolve the issue presented in Defendants' Motion to Extend Time to Oppose Plaintiff's Motion to Remand.

Respectfully submitted,

KENNEDY & ROSSI, INC.
By its attorneys,

HOLLAND & KNIGHT

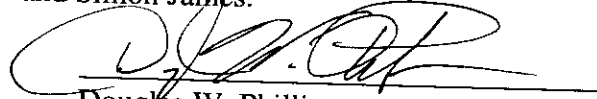


Paul M. James (BBO # 552342)
Douglas W. Phillips (BBO # 636197)
10 St. James Avenue
Boston, Massachusetts 02116
(617) 523-2700

Dated: August 27, 2003

CERTIFICATE OF SERVICE

I, Douglas W. Phillips, hereby certify that I caused a copy of the foregoing to be sent this 27th day of August, 2003, to Steven Drury, 18 Drury Lane, Templeton, MA 01468 and Christopher N. Souris, attorney for defendants New England Regional Council of Carpenters, Carpenters Local Union No. 107, Thomas Harrington, Art Sisko and Simon James.


Douglas W. Phillips